

With regard to Henn et al., applicants agree that in Examples 8C and 8D Henn does show providing loose fiber flocking onto the coated surface of the ePTFE material. However, there is no mention or suggestion of utilizing an electrostatic flocking process to apply the flocking material to the ePTFE material.

With regard to Lumb, applicants submit that Lumb relates to a composite fabric and method of making the same. The composite fabric includes a fabric substrate, a thin layer of foamed adhesive substantially interlocking with the surface region of one side of the fabric substrate and a fabric material having a surface suitable for exterior use interlocking with the foamed adhesive and defining a surface of the composite fabric. The fabric material layer is preferably a layer of flock fibers. Although Lumb does mention that one possible flocking process is by the electrostatic method, applicants assert that Lumb has nothing to do with ePTFE substrates, or for that matter any microporous polymer substrates. Furthermore, applicants assert that Lumb, if anything, teaches away from the conclusion reached by the Examiner. Applicants would respectfully direct the Examiner's attention to column 1, lines 32-41 of the Lumb reference wherein two prior art patents are discussed. Specifically, Lumb discusses that Mastroianni and Sampson teach flocked, foam coated, fibrous reinforced, water vapor permeable bacterial barriers for forming surgical drapes in gowns and similar articles. The barriers include microporous polyolefin film coated with a foamed latex polymer upon which a layer of fibers is flocked. As mentioned by Lumb, the barriers, however, are not suitable for apparel use since the flock is adhered to a polyolefin film, not a fabric. Thus, it can only be concluded that Lumb teaches away from attempting to apply flock material to microporous polymer films (e.g., ePTFE films). Thus, there is no suggestion to combine the references, as suggested by the Examiner.

Furthermore, even if the combination of Henn and Lumb were proper, applicants submit that the rejection still must fail. Specifically, as shown in the examples of the present application, the electrostatic flocking process results in the currently claimed surprising properties, namely the fact that the claimed flocked article has a wear test cycles to leakage value of at least 50 cycles. Applicants submit that the combination of Henn et al. and Lumb does not disclose or suggest the surprising results obtained in the present invention. In short, applicants submit that the surprising results obtained are neither disclosed nor suggested by the prior art.

Further, the Examiner asserts that "with respect to the claimed wear test cycles to leakage values, it is asserted that the property would be met by the combination of references. Support for this assertion is found in the fact that like materials cannot have mutually exclusive properties. (See In re Spada, 15USPQ2d 1655)". Applicants submit that this is a misapplication of the law.

Applicants respectfully submit that nowhere in In re Spada can support be found for the Examiner's rejection. Applicants agree that In re Spada, stands for the assertion that "like materials cannot have mutually exclusive properties"; however, applicants submit that In re Spada was comparing the polymer of Spada's invention to a polymer described in the single prior art reference issued to Smith. Although Spada argued his polymer was distinct from Smith due to certain properties not described in the Smith reference, the Court rejected this argument

asserting that discovery of an unobvious property and use does not overcome the statutory restraint of §102 when the claimed composition is known. Applicants assert that for the Examiner to properly apply In re Spada, the Examiner would have to have provided a single prior art reference which showed expanded PTFE substrate having at least one layer of flocked particulate attached by an electrostatic process so that at least a portion of the flocked particulate stands on end to form a flocked surface. Applicants agree that if this were the case, the burden would then be upon applicants to prove that the single prior art article did not inherently have the claimed wear test cycles to leakage value.

Taking the Examiner's position that In re Spada can be used in §103 rejections that rely upon a combination of references, would lead to the result of virtually nothing being patentable even when surprising results are obtained.

In summary, applicants submit that the rejections should be withdrawn at least because: 1) the combination of Henn et al. and Lumb is improper in as much as Lumb teaches away from such a combination; 2) even if the combination were proper, the combination of references still does not disclose or suggest the surprising results claimed; and 3) that the application of In re Spada is improper.

In the event that the Examiner continues to reject the claims, applicants hereby request an interview with the Examiner prior to issuance of a final Office Action.

Should the Office have any questions, the Office is invited to telephone applicants' undersigned representatives.

Respectfully submitted,



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